

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

MFS  
International, Inc.

File No. I-T-C-94-246

Application for Authority Pursuant to Section 214 of the Communications Act of 1934, as amended, to provide authorized international common carrier direct services between the United States and Europe, utilizing the PTAT, TAT-8, TAT-9, TAT-10, TAT-11, and Germany-Denmark 1 Submarine Cable Systems; to provide, through the use of authorized capacity and transit arrangements, indirect service between the United States and Europe; and to provide authorized international common carrier direct services between the United States and foreign points utilizing the INTELSAT satellite system

**ORDER, AUTHORIZATION AND CERTIFICATE**

**Adopted: October 20, 1994; Released: October 28, 1994**

By the Chief, Telecommunications Division:

1. The above-captioned uncontested application<sup>1</sup> filed, pursuant to Section 214 of the Communications Act of 1934, as amended (the Act), by MFS International, Inc (MFSI),<sup>2</sup> requests authority to acquire and operate capacity on an Indefeasible Right of User (IRU) basis in the PTAT-1, TAT-8, TAT-9, TAT-10, TAT-11 and the Germany-Denmark cable systems for the provision of direct switched and private line services between the United States and each of

the following international points: United Kingdom, Ireland, France, Germany, Belgium, Sweden, and the Netherlands.<sup>3</sup>

2. MFSI also requests authority to (i) use the above-mentioned facilities for service to the international locations specified in Attachment B through transiting arrangements with MFSI's foreign correspondents; (ii) acquire by lease and operate such facilities as may be necessary to extend capacity in the cable systems and to link the U.S. cable landing stations to MFSI's technical operations center in Jersey City, New Jersey; (iii) establish and operate channels of communication on INTELSAT's Atlantic Ocean Region (AOR) and Pacific Ocean Region (POR) satellites for the provision of IBS and International Television Services (data, voice, video, audio and television services) between the United States and the international points listed in Attachment C; and (iv) provide transborder services (video and business services) using domestic satellites and the Canadian ANIK satellite system.<sup>4</sup> Upon consideration of MFSI's uncontested application, pursuant to Section 214 of the Act, we certify that the present and future public convenience and necessity require its grant.

3. Accordingly, IT IS ORDERED that application File I-T-C-94-246 IS GRANTED and MFSI is authorized to:

(i) acquire, on an IRU basis, and operate a one-half interest in up to two (2) DS-3s in the PTAT-1 cable system, up to one (1) DS-3 in each of the TAT-8, TAT-9, TAT-10, and TAT-11 cable systems, and up to two (2) DS-3s in the Germany-Denmark cable system;

(ii) acquire by lease and operate such facilities as may be necessary to extend capacity in cable systems and to link the U.S. cable landing stations to MFSI's technical operations center in Jersey Center, New Jersey;

(iii) use the authorized capacity to provide direct switched and private line services between the United States and the United Kingdom, Ireland, France, Germany, Belgium, Sweden and the Netherlands;

(iv) use the authorized capacity for transit arrangements for indirect service between the United States and the international points listed in Attachment B;

(v) lease and operate channels of communication on INTELSAT AOR and POR satellites for the provision of IBS, International Television Services (data, voice, video, audio and television services) between the United States and the international points listed in Comsat FCC Tariff No. 103, and for the provision of

<sup>1</sup> Although AT&T filed on May 6, 1994 a petition to deny in part this application, MFSI and AT&T subsequently filed a joint statement through which AT&T withdrew its opposition. In the joint statement, AT&T stated that it had no objection to the grant of MFSI's application in light of MFSI's clarification that MFSI does not intend to resell private lines, but rather to provide private lines which may be interconnected to the public switched networks. See Joint Statement of AT&T Corp. and MFSI to George Li, Chief, International Facilities Division, Common Carrier Bureau (dated May 25, 1994). We, therefore, consider this application to be uncontested.

<sup>2</sup> MFSI is a Delaware corporation that is a wholly-owned

subsidiary of MFS Communications Company, Inc. MFSI is regulated as a non-dominant international carrier. See MFSI Section 214 Authorization, 9 FCC Rcd 2275 (1994).

<sup>3</sup> MFSI intends to utilize connecting facilities from cable landing stations to Belgium and Sweden through agreements with its correspondents.

<sup>4</sup> MFSI intends to provide TV reception, occasional point-to-point video services, business services, including data and electronic document distribution, video teleconferencing and voice communications. MFSI proposes using the Canadian ANIK satellite system which currently consists of ANIK B, C1, C2, C3, D1, D2, E-A and E-B and all U.S. domestic satellites for which INTELSAT Article XIV(d) consultation has been completed successfully, and FCC authorization has been granted.

international switched and private line services between the United States and the international points listed in Attachment C; and

(vi) provide transborder services (including video, data and business services) using U.S. domestic satellites and Canadian ANIK satellite system consistent with existing consultations under Article XIV(d) of the INTELSAT Agreement.

4. IT IS FURTHER ORDERED that neither MFSI nor any persons or companies directly or indirectly controlling it or controlled by it, or under direct or indirect common control with it, shall acquire or enjoy any right, for the purposes of handling or interchanging traffic to or from the United States, its territories or possessions which is denied to any other United States carrier by reason of any concession, contract, understanding, or working arrangement to which MFSI or any such persons or companies controlling or controlled by MFSI are parties.

5. IT IS FURTHER ORDERED that our authorization of MFSI to provide private lines is limited to the provision of such private lines only between the United States and each of those points listed in the appendices -- that is, private lines which originate in the United States and terminate in one of the points listed in the appendices, or which originate in one of the points listed in the appendices and terminate in the United States. In addition, MFSI may not -- and MFSI's tariff must state that its customers may not -- connect private lines provided over these facilities to the public switched network at either the U.S. or foreign end, or both, for the provision of international switched or interconnected private line services, unless authorized to do so by the Commission upon a country specific finding that the foreign administration affords resale opportunities equivalent to those available under U.S. law, in accordance with *Regulation of International Accounting Rates*, Phase II First Report and Order, 7 FCC Rcd 559 (1991), *Order on reconsideration and Third Further Notice of Proposed Rulemaking*, 7 FCC Rcd. 7927 (1992), *petition for reconsideration pending*.

6. IT IS FURTHER ORDERED that MFSI shall file semi-annual reports of circuits additions pursuant to Section 63.15(b) of the Commission's Rules, 47 C.F.R. §63.15(b) for the INTELSAT and common carrier cable capacity authorized herein.

7. IT IS FURTHER ORDERED that MFSI shall obtain prior authority pursuant to Section 214 of the Communications Act, 47 U.S.C. §214, before adding any circuits or channels of communication for the provision of service over the PTAT-1 cable system or any non-common carrier facility.

8. IT IS FURTHER ORDERED that this authorization is issued subject to the terms and conditions of any license for the PTAT-1 cable system issued herein under the Act entitled "An Act relating to the landing and operation of submarine cables in the United States." 47 U.S.C. §§ 34-39.

9. IT IS FURTHER ORDERED that MFSI shall file tariff provisions pursuant to Section 203 of the Communications Act, 47 U.S.C. §203, and Part 61 of the Commission's Rules, 47 C.F.R. Part 61, for the services authorized in this Order.

10. IT IS FURTHER ORDERED that MFSI shall file the annual reports of overseas telecommunications traffic required by Section 43.61 of the Commission's Rules, 47 C.F.R. §43.61.

11. IT IS FURTHER ORDERED that MFSI shall file copies of any operating agreements entered into with foreign correspondents with the Commission within 30 days of their execution, and shall otherwise comply with the filing requirements contained in Section 43.51(a) of our Rules, 47 C.F.R. §43.51.

12. IT IS FURTHER ORDERED that this Order may be subject to future modification pursuant to the outcome of the *Phase II Third Further Notice* and any related proceedings.

13. This Order is issued under Section 0.261 of the Commission's Rules and is effective upon adoption. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's Rules may be filed within 30 days of the public notice of this Order (see Section §§1.4(b)(2)).

#### FEDERAL COMMUNICATIONS COMMISSION

Diane J. Cornell  
Chief, Telecommunications Division  
International Bureau

#### Attachment A<sup>5</sup>

Cable System	Capacity	Countries
PTAT-1	2 DS-3	U.K., Ireland
TAT-8	1 DS-3	U.K., France
TAT-9	1 DS-3	U.K., France
TAT-10	1 DS-3	Germany, Netherlands
TAT-11	1 DS-3	U.K., France
Germany-Denmark 1	2 DS-3	Germany, Denmark

<sup>5</sup> MFSI has stated that the initial utilization of the herein authorized circuits will be 3 E-1 circuits each to the United Kingdom and Ireland on PTAT-1. With respect to the capacity requested in the TAT-8, TAT-9, and TAT-11 cables, MFSI anticipates using six E-1 circuits to the United Kingdom and three E-1 circuits to France, but is uncertain as to which cables will be utilized for which circuits. With respect to the requested

capacity on TAT-10, MFSI anticipates splitting the capacity between Germany and the Netherlands, with two E-1s of the cable's capacity being used for service to Germany and one E-1 being used for service to the Netherlands. Each DS-3 is equivalent to 630 voice grade circuits (before multiplexing). See Letter from Helen Disenhaus, Esq., Counsel for MFSI to Jennifer A. Warren, Esq., Common Carrier Bureau (dated July 25, 1994).

## Attachment B

COUNTRIES FOR WHICH TRANSITING  
AUTHORITY IS REQUESTED

Austria  
Belgium  
Denmark  
Finland  
France  
Germany  
Ireland  
Italy  
Netherlands  
Norway  
Portugal  
Spain  
Sweden  
Switzerland  
United Kingdom

Kyrgyzstan 2 DS-3  
Latvia 2 DS-3  
Liechtenstein 2 DS-3  
Lithuania 2 DS-3  
Mexico 2 DS-3  
Moldova 2 DS-3  
Netherlands 2 DS-3  
New Zealand 2 DS-3  
Norway 2 DS-3  
Panama 2 DS-3  
Peru 2 DS-3  
Philippines 2 DS-3  
Poland 2 DS-3  
Portugal 2 DS-3  
Romania 2 DS-3  
Russia 2 DS-3  
Saudi Arabia 2 DS-3  
Singapore 2 DS-3  
South Africa 2 DS-3  
Spain 2 DS-3  
Sweden 2 DS-3  
Switzerland 2 DS-3  
Taiwan 2 DS-3  
Tajikistan 2 DS-3  
Thailand 2 DS-3  
Turkmenistan 2 DS-3  
Ukraine 2 DS-3  
United Kingdom 2 DS-3  
Uzbekistan 2 DS-3  
Venezuela 2 DS-3  
Yugoslavia 2 DS-3  
Zaire 2 DS-3

## Attachment C

Countries For Section 214 INTELSAT  
Switched and Private Line Authority

Country	No. of Circuits
Argentina	2 DS-3
Armenia	2 DS-3
Austria	2 DS-3
Australia	2 DS-3
Azerbaijan	2 DS-3
Bahamas	2 DS-3
Belgium	2 DS-3
Bermuda	2 DS-3
Brazil	2 DS-3
Byelarus	2 DS-3
Canada	2 DS-3
Chile	2 DS-3
China, People's Republic	2 DS-3
Denmark	2 DS-3
Ecuador	2 DS-3
Egypt	2 DS-3
Estonia	2 DS-3
France	2 DS-3
Georgia	2 DS-3
Germany	2 DS-3
Ghana	2 DS-3
Greece	2 DS-3
Hong Kong	2 DS-3
India	2 DS-3
Indonesia	2 DS-3
Ireland	2 DS-3
Israel	2 DS-3
Italy	2 DS-3
Japan	2 DS-3
Kazakhstan	2 DS-3
Kenya	2 DS-3
Korea	2 DS-3